REMARKS

The present Amendment amends claims 2, 3, 10, 22, 24, 25 and 32, cancels claims 1, 12-21 and 23 and leaves claims 4-9, 11, 26-31 and 33 unchanged. Therefore, the present application has pending claims 2-11, 22 and 24-33.

Claims 1, 10, 11, 12-21 and 23-33 stand rejected under 35 USC §101 as allegedly being directed to non-statutory subject matter. As indicated above, claims 1, 12-21 and 23 were canceled. Therefore, this rejection with respect to claims 1, 12-21 and 23 is rendered moot. This rejection with respect to the remaining claims 10, 11 and 24-33 is traversed for the following reasons. Applicants submit that the features of the present invention as now recited in claims 10, 11 and 24-33 are clearly directed to statutory subject matter. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

With respect to claims 10, 11 and 24-33, it is noted that these claims are system/apparatus claims not computer program product claims as alleged by the Examiner in the Office Action. To further clarify that these claims are in fact system/apparatus claims amendments were made to each of the claims as needed so as to recite first and second processors corresponding to the apparatus such as that illustrated in Fig. 2 of the present application wherein two servers 1 and 6 are disclosed as being connected to the network 3 for performing different functions relative to each other. It should also be noted that others of the claims recite servers 1 and 6 terminals 4 a, b and 5a and b corresponding to the system/apparatus as illustrated, for example, in Fig. 2 of the present application. Servers, terminals, processors are will known apparatus.

Thus, the claims 10 and 11 are each directed to a system/apparatus having at least two servers (processors) and additionally various terminals such as that illustrated in Fig. 2 of the present application and as such are directed to "useful...machine" as permitted under 35 USC §101. Therefore, reconsideration and withdrawal of the 35 USC §101 rejection of claims 10, 11 and 24-33 is respectfully requested.

Claims 1-3, 6, 8, 10, 23, 24 and 32 stand rejected under 35 USC §102(e) as being anticipated by Yabutani (U.S. Patent No. 6,775,595); claims 4, 5, 9, 11, and 33 stand rejected under 35 USC §103(a) as being unpatentable over Yabutani; claims 12-22 stand rejected under 35 USC §103(a) as being unpatentable over Yabutan in view of Packa (U.S. Patent No. 5,717,609); and claims 7, 25-27 and 29-31 stand rejected under 35 USC §103(a) as being unpatentable over Yabutani in view of Johnson (U.S. Patent No. 5,758,331).

As indicated above, claims 1, 12-21 and 23 were canceled. Therefore, these rejections with respect to claims 1, 12-21 and 23 are rendered moot. Accordingly, reconsideration and withdrawal of these rejections with respect to claims 1, 12-21 and 23 is respectfully requested.

With respect to the remaining claims 2-11, 22 and 24-33 these rejections are traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 2-11, 22 and 24-33 are not taught or suggested by Yabutani, Packa or Johnson whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw these rejections.

Amendments were made to each of the independent claims so as to more clearly describe features of the present invention. Particularly, amendments were made to each of the independent claims so as to more clearly recite that as illustrated in the flowchart of Fig. 1, particularly Step S5, a determination is made of the initial cost and the repayment scheme based on the reduced amount of running cost so as to allow such amount to be withdrawn from the customer's account to be paid to the business enterpriser account for the sale of the energy saving facility at a reduced cost minus the reduced running cost as in the present invention. In order to fully understand these features of the present invention as now more clearly recited in the claims the Examiner's attention is directed to the flowchart in Fig. 1 particularly Step S5 and the discussion thereof which can be found on page 11, lines 9-18 of the present application.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by any of the references of record particularly Yabutani, Packa or Johnson whether taken individually or in combination with each other as suggested by the Examiner.

Yabutani merely discloses, for example, in col. 6, lines 46-47 that the fee for delivery of the equipment is not charged and billed to the customer. Thus, there is no teaching or suggestion in Yabutani wherein a determination is made of the reduced running cost of the new facility and subtracting the reduced running cost from the initial cost of the new facilities and the repayment of such reduced running cost to, for example, the installer of the new energy saving facility to account for the sale of the new energy saving facilities to the customer at less than the actual cost

as in the present invention. These features of the present invention provides unique advantages over that taught by Yabutani or any of the references of record namely that the customer is able to hold down initial cost by having the amount of reduction of running cost be applied to the initial cost of the new energy saving facilities. Such is not possible nor is it taught or suggested by Yabutani.

Thus, Yabutani fails to teach or suggest deciding an amount to be drawn from the customers account to repay the reduced amount of the running cost which has been subtracted from the initial cost of the energy saving facility based on the reduced amount of the running cost and a predicted reduced amount of running cost of the energy saving facility for a predetermined period as recited in the claims.

Therefore, as is quite clear, the features of the present invention as now more clearly recited in the claims are not taught or suggested by Yabutani. Accordingly, reconsideration and withdrawal of the 35 USC §102(e) rejections of the claims as being anticipated by Yabutani and the 35 USC §103(a) rejections of the claims as being unpatentable over Yabutani is respectfully requested.

The above noted deficiencies of Yabutani are not supplied by Packa or Johnson.

Packa is merely relied upon by the Examiner for an alleged introduction of energy saving facilities into a customer wherein the savings are based on a comparison between non-energy saving and energy saving facilities. However, at no point is there any teaching or suggestion in Packa of the above described features of the present invention as now more clearly recited in the claims wherein an amount is deducted from the customers account so as to account for the reduction in initial cost

of the energy saving facilities at the which the customer purchased the energy saving facility as in the present invention.

Thus, it is quite clear that Packa fails to teach or suggest deciding an amount to be withdrawn from the customers account to repay the reduced amount of the running cost which has been subtracted from the initial cost of the energy saving facility based on the reduced amount of the running cost and a predicted reduced amount of running cost of the energy saving facility for a predetermined period as recited in the claims.

Therefore, Yabutani whether taken individually or in combination with Packa fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of the claims as being unpatentable over Yabutani and Packa is respectfully requested.

Johnson the same as Yabutani and Packa also fails to teach or suggest the features of the present invention as now more clearly recited in the claims. In fact, Johnson is merely relied upon for an alleged teaching that an energy saving system includes a plurality of modules such as conservation programs, finance proposals, customer information and reports and the like. However, at no point is there any teaching or suggestion in Johnson of the above described features of the present invention now more clearly recited in the claims regarding the repayment of the reduced running cost subtracted from the initial cost of the energy saving facilities as in the present invention.

Thus, Johnson fails to teach or suggest deciding an amount to be withdrawn from the customers account to repay the reduced amount of the running cost which has been subtracted from the initial cost of the energy saving facility based on the reduced amount of the running cost and a predicted reduced amount of running cost of the energy saving facility for a predetermined period as recited in the claims.

Therefore, as is quite clear from the above, the combination of Yabutani and Johnson fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of the claims as being unpatentable over Yabutani in view of Johnson is respectfully requested.

In the Office Action the Examiner sets forth various arguments where official notice is taken of alleged well known teachings. Applicants do not agree with any of the official notices taken by the Examiner. In fact, the Examiner merely makes broad allegations that different features of the claimed invention are well known without placing such alleged well known features in the context of how and what steps would be necessary to integrate such a feature in a system for collecting the cost of an energy-saving facility as recited in the claims. The mere fact that some feature is well known does not enable one skilled in the art to integrate the feature in the invention.

Therefore, in accordance with the appropriate practice as set forth in MPEP these official notices taken by the Examiner are hereby traversed and the Examiner is respectfully requested as required to identify a reference which can support each of the alleged official notices taken by the Examiner in the forthcoming Office Action.

As is quite clear from the above, Applicants submit that the features of the present invention as now more clearly recited in the claims are not taught or suggested by any of the references of record whether taken individually or in combination with each other. Therefore, claims 2-11, 22 and 24-33 are allowable as indicated by the Examiner.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 1-33.

In view of the foregoing amendments and remarks, applicants submit that claims 2-11, 22 and 24-33 are in condition for allowance. Accordingly, early allowance of claims 2-11, 22 and 24-33 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (501.39577X00).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

Carl I. Brundidge
Registration No. 29,621

CIB/jdc
(703) 684-1120